

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

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| UNITED STATES OF AMERICA |) | |
| |) | Case No. 1:03CR00093 |
| |) | |
| v. |) | OPINION AND ORDER |
| |) | |
| ROBERT LEE SMITH, |) | By: James P. Jones |
| |) | Chief United States District Judge |
| Defendant. |) | |

Robert Lee Smith, Petitioner Pro Se.

The defendant, Robert Lee Smith, who was sentenced by this court on June 30, 2004, has filed a “Motion for a Nunc Pro Tunc Amended Judgment.” Specifically, Smith asks the court to grant him credit against his criminal sentence for jail time he served between September 14, 2004 and the date of sentencing. As Smith is not incarcerated within this district, I must deny the motion.

The Bureau of Prisons (“BOP”) and not the sentencing court is responsible for granting an inmate credit against his criminal sentence for jail time served before sentencing. *United States v. Wilson*, 503 U.S. 329, 334 (1992). Furthermore, “[j]udicial review [of BOP computations of sentence] must be sought under 28 U.S.C. § 2241 in the district of confinement rather than in the sentencing court.” *United States v. Miller*, 871 F.2d 488, 490 (4th Cir. 1989).

Under these principles, I am without jurisdiction to grant Smith any jail credit against his sentence. He is currently housed at a federal prison facility in Bennetteville, South Carolina. Therefore, if he wishes to seek judicial review of the BOP decision to deny him the desired jail credit, he must pursue such a claim by filing a § 2241 petition in the United States District Court for the District of South Carolina.

For the stated reasons, it is **ORDERED** that the motion is **DENIED**.

ENTER: October 18, 2006

/s/ JAMES P. JONES
Chief United States District Judge